



FREDERICK COUNTY PLANNING COMMISSION

March 10, 2010

TITLE: Demiray, LLLP Property Agricultural
Concept Plan, Lots 1-7

FILE NUMBER: M-1149 AP11034

REQUEST: **Agricultural Concept Plan**
Approval of an Agricultural Cluster Concept Plan.

PROJECT INFORMATION:

LOCATION: Located on the West side of Petersville Road, north of the corporate limits of Rosemont.
ZONE: Agricultural (AG)
REGION: Brunswick
WATER/SEWER: No Planned Service
COMP. PLAN/LAND USE: Agricultural Rural

APPLICANT/REPRESENTATIVES: (as applicable)

APPLICANT/OWNER: Demiray, LLLP
ENGINEER: Lingg Property Consulting

STAFF: Michael Wilkins, Development Review Principal Planner II

RECOMMENDATION: **Conditional Approval**

Enclosures:

REPORT

BACKGROUND:

This 201+/- acre property (Tax Map 92 Parcel15) has been the subject of three previous subdivision applications;

- In July 2007, a preliminary plan was submitted for a 72 lot R-1 subdivision.
- In November 2007, the FcPc gave a favorable opinion of a sketch plan for the 72 lot subdivision for the purposes of percolation testing only.
- In June 2009, a combined preliminary/final plat was submitted for a 5 lot R-1 subdivision in the location of the currently proposed Ag Cluster development.
- In April 2010 the zoning of the property changed from R-1 to Agricultural.

The Applicant now wishes to pursue the approval of 7 lots under the agricultural cluster provisions of 1-19-7.300(C). If approved, the creation of the 7 new lots will be considered a major subdivision. However, any major subdivision approval for this project (including approval of panhandles) will be handled during the review of the preliminary plan and final plat applications.

ANALYSIS:

Lot Design:

The purpose and intent of clustering is *“to encourage conservation of farmland...by planning the residential development...to provide for the best obtainable siting, access, and location of lots...”* and *“to provide for a well planned development while minimizing the use of prime agricultural land.”*

The 7 proposed lots are situated on the eastern half of the parcel and are located behind the Forest Park subdivision and other developed lots of record.

Section 1-19-7.300(C)(3)(b)(2) of the Zoning Ordinance states *“the cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.”*

Proposed lots 1 and 2 abut previously recorded lots. Due to the location of floodplain soils and wet soils, lots 3-7 are situated approximately 100 feet north and west of proposed lots 1 and 2 and the existing lots of record. Although proposed lots 3-7 do not abut proposed lots 1 and 2 or the existing lots of record, they are located near these other lots.

Section 1-19-7.3(C)(1-2) of the Zoning Ordinance states *“all clusters of 6 or more lots shall be served by an internal public street and shall not be stripped along an existing roadway”*. The Applicant proposes to record the lots in two phases:

Phase I: Lots 1,3,4,6, & 7 (5 lots) will be recorded first and will utilize a 16 foot wide common driveway. These first 5 lots do not require a public street and may be processed as a minor subdivision.

Phase II: Lots 2 & 5 (the 6th and 7th lots) will be recorded after the phase I lots and will require a public street. In order to record these two lots, the common driveway must be upgraded to County road standards and the road dedicated to public use. The creation of a public street will also eliminate the panhandles that will temporarily serve the Phase I lots. Preliminary Plan approval of the new public street and the two major subdivision lots will be required.

This development will be required to meet the internal public street requirement when the 6th and/or 7th lot is proposed, and the lots are situated so that they are not stripped along Petersville Road.

Lot Size:

Section 1-19-7.300(C)(2)(c) of the Zoning Ordinance states that Agricultural Cluster lots should average 1.50 acres in size, with no lots exceeding 2 acres in size. The average size of the 7 proposed lots is 1.50 acres, which meets the 1.50-acre average lot size as established in the Zoning Ordinance. None of the proposed lots exceed 2 acres in size.

Soils:

Per 1-19-7.300(C)(3)(b)(1) of the Zoning Ordinance, cluster development should minimize the use of class I, II, and III soils, which are deemed the highest quality for agricultural uses. The proposed lots are within class II and III soils which should be avoided. However, most of the farm is composed of class II and III soils. A lot design avoiding the class II and class III soils may not be feasible.

ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO):

The subdivision is not subject to APFO at the time of Concept Plan approval. The first five lots are considered a minor subdivision and are not subject to APFO at preliminary plan. However, based on current county code, APFO review would be required at the time a preliminary plan for the 6th lot and 7th lot is submitted.

FOREST RESOURCE ORDINANCE (FRO):

At the Concept Plan phase, a forest stand delineation plan is the only FRO requirement. Forest conservation plans and mitigation must be provided prior to the approval of preliminary plans and final plats. A forest stand delineation plan and combined preliminary/final forest conservation plan was approved in March 2010 for the proposed 5-lot R-1 subdivision. The Applicant proposes to mitigate by planting forest in the floodplain of Little Catoctin Creek on the remainder. The previously approved forest stand delineation plan meets the FRO requirements for this Concept Plan submittal. However, a revised forest conservation plan must be submitted prior to lot recordation that accounts for the changes to lot design, zoning, and acreage that have occurred between the 5-lot R-1 subdivision and the proposed 7-lot agricultural cluster subdivision. FRO mitigation must be provided prior to lot recordation.

FINDINGS:

Staff finds that the proposed Ag Cluster plan meets and/or will meet all subdivision and zoning

requirements if the conditions of approval are satisfied. Staff has no objection to conditional approval of the concept plan.

RECOMMENDATION:

Should the FcPc approve this Application (S-1149, AP11034), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. APFO testing is required at the time a preliminary plan for the 6th lot and 7th lot is submitted.
3. A revised forest conservation plan must be submitted prior to lot recordation. FRO mitigation must be provided prior to lot recordation.